

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Michael F. Dehoney, #186871,)	
)	
Plaintiff,)	C.A. No. 8:04-21981-HMH-BHH
)	C.A. No. 8:04-22025-HMH-BHH
)	C.A. No. 8:04-22026-HMH-BHH
)	
vs.)	OPINION & ORDER
)	
Jon Ozmint, Director of SCDC, and)	
Henry McMaster, Attorney General of)	
South Carolina,)	
)	
Respondents.)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Bruce H. Hendricks, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 DSC.¹ Michael F. Dehoney (“Dehoney”), proceeding pro se, brings three actions involving alleged errors by the South Carolina Department of Corrections (“SCDC”) in disciplinary matters. Respondents moved for summary judgment in all three cases on December 17, 2004. An order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). Plaintiff responded to the motions on January 21, 2005, and later filed a motion for summary judgment in civil actions 8:04-22025 and 8:04-22026. In the Report and

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Recommendation, Magistrate Judge Hendricks recommends granting Respondents' motion for summary judgment in each case and denying Dehoney's motion for summary judgment filed in civil actions 8:04-22025 and 8:04-22026.

Dehoney filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that, with one exception, Dehoney's objections are unrelated to the dispositive portions of the Magistrate Judge's Report and Recommendation and merely restate his claims. Dehoney's specific objection—that the Magistrate Judge's reliance on *Preiser v. Rodriguez*, 411 U.S. 475 (1973), was in error because *Presser* was later overruled—is without merit. *Preiser* has not been overruled, and the Report's reliance on *Preiser* for the proposition that a prisoner challenging the fact or duration of his sentence must proceed pursuant to 28 U.S.C.A. § 2255 (West Supp. 2005), was proper. *Preiser*, 411 U.S. at 500. Therefore, after a thorough review of the Magistrate Judge's Report and the record in these cases, the court adopts the Magistrate Judge's Report and Recommendation.

Therefore, it is

ORDERED that Respondents' motion for summary judgment, Document number 6 in civil action 8:04-21981, Document number 8 in civil action 8:04-22025, and Document number 6 in civil action 8:04-22026, is granted. Further, it is

ORDERED that Dehoney's motion for summary judgment, Document number 12 in civil action 8:04-22025 and Document number 10 in civil action 8:04-22026, is denied.

IT IS SO ORDERED.

s/ Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
August 9, 2005

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.